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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 **JOSEPH CLINE JACOBS**
12 203 Phillips Place
13 Royal Oak, MI 48067

14 Registered Nurse License No. 663765

15 Respondent.

Case No. **2010-293**
ACCUSATION

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
21 Department of Consumer Affairs.

22 2. On or about August 17, 2005, the Board issued Registered Nurse License Number
23 663765 to Joseph Cline Jacobs (Respondent). The license expired on January 31, 2007, and has
24 not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code (Code) unless otherwise
28 indicated.

1 4. Code section 2750 provides, in pertinent part, that the Board may discipline any
2 licensee, including a licensee holding a temporary or an inactive license, for any reason provided
3 in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
5 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
6 to render a decision imposing discipline on the license.

7 STATUTORY / REGULATORY PROVISIONS

8 6. Code section 2761 provides, in pertinent part:

9 “The board may take disciplinary action against a certified or licensed nurse or deny an
10 application for a certificate or license for any of the following:

11 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

12 “ . . .

13 “(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
14 against a health care professional license or certificate by another state or territory of the United
15 States, by any other government agency, or by another California health care professional
16 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
17 action.

18 “ . . .

19 “(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
20 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
21 Act] or regulations adopted pursuant to it.”

22 7. Code section 2762 provides, in pertinent part, that in addition to other acts
23 constituting unprofessional conduct within the meaning of the Nursing Practice Act, it is
24 unprofessional conduct for a licensed nurse under this chapter to do any of the following:

25 “(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
26 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
27 administer to another, any controlled substance as defined in Division 10 (commencing with
28 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as

1 defined in Section 4022.

2 " . . .

3 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
4 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
5 section."

6 8. Health and Safety Code section 11173, subdivision (a), provides that "[no] person
7 shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the
8 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
9 or subterfuge; or (2) by the concealment of a material fact."

10 9. Code section 4060 provides:

11 "No person shall possess any controlled substance, except that furnished to a person upon
12 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
13 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-
14 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, [or] a
15 physician assistant pursuant to Section 3502.1 . . ."

16 COST RECOVERY

17 10. Code section 125.3 provides that the Board may request the administrative law judge
18 to direct a licensee found to have committed a violation or violations of the licensing act to pay a
19 sum not to exceed the reasonable investigation and enforcement costs of the case.

20 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

21 11. Code section 4021 states:

22 "'Controlled substance' means any substance listed in Chapter 2 (commencing with Section
23 11053) of Division 10 of the Health and Safety Code."

24 12. Code section 4022 provides:

25 "'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use in
26 humans or animals, and includes the following:

27 "(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without
28 prescription,' 'Rx only' or words of similar import.

“(b) Any device that bears the statement: ‘Caution: federal law restricts this device to sale by or on the order of a _____,’ ‘Rx only,’ or words of similar import . . .

“(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.”

13. Hydromorphone, also known by the brand name “Dilaudid,” is an opioid analgesic subject to control as a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1), and a dangerous drug within the meaning of Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Fraudulent Procurement of Controlled Substances)

14. Respondent is subject to disciplinary action for unprofessional conduct under Code sections 2762, subdivision (a), and 2761, subdivision (d), in that while working as a Registered Nurse, he obtained controlled substances and/or dangerous drugs by fraud, deceit, misrepresentation, subterfuge, or by the concealment of material facts, in violation of Health and Safety Code section 11173, subdivision (a), as follows:

a. On about 40 occasions between approximately March 4 and April 4, 2006, while working as a registered nurse in the emergency department at Contra Costa Regional Medical Center in Martinez, California, Respondent obtained quantities of hydromorphone for patient administration in excess or in the absence of physicians' orders by accessing the hospital's medication dispensing system,¹ but did not document or otherwise account for the administration or disposition of the medication.

b. On multiple occasions during or around March 2006, while working as a registered nurse in the emergency department at John Muir Medical Center in Walnut Creek, California, Respondent obtained quantities of hydromorphone for patient administration in excess or in the

¹ Automated medication dispensing and supply systems utilize Personal Identification Number (PIN) codes to access controlled substances from the system which automatically logs all transactions involving the removal of controlled substances, including the names of the person accessing the system and the patient for whom the substances were ordered, the date, time, and dosage being obtained.

1 absence of physicians' orders by accessing the hospital's medication dispensing system, but did
2 not document or otherwise account for the administration or disposition of the medication.

3 SECOND CAUSE FOR DISCIPLINE

4 (Wrongful Possession of Controlled substances)

5 15. Respondent is subject to disciplinary action for unprofessional conduct under Code
6 sections 2762, subdivision (a), and 2761, subdivision (d), in that he diverted and possessed
7 without a prescription controlled substances and/or dangerous drugs in violation of Code section
8 4060, as described in paragraph 14, above.

9 THIRD CAUSE FOR DISCIPLINE

10 (Documentation Failures/False Entries)

11 16. Respondent is subject to disciplinary action for unprofessional conduct under Code
12 sections 2762, subdivision (e), and 2761, subdivision (d), in that he made false, grossly incorrect,
13 or grossly inconsistent entries in hospital, patient, or other records pertaining to controlled
14 substances and/or dangerous drugs, as described in paragraph 14, above.

15 FOURTH CAUSE FOR DISCIPLINE

16 (Out-of-State Discipline)

17 17. Respondent is subject to disciplinary action under Code section 2761, subdivision
18 (a)(4), for unprofessional conduct in that his Ohio and Michigan Registered Nurse (RN) licenses
19 have been subject to revocation, suspension, or other disciplinary action by a government agency,
20 as follows:

21 a. Effective on or about November 17, 2006, the Ohio Board of Nursing permanently
22 revoked RN License Number 328614, issued to Respondent on or about September 8, 2006;

23 b. Effective on or about March 2, 2008, the Michigan Board of Nursing suspended RN
24 License Number 4704247450, issued to Respondent on or about March 23, 2005.

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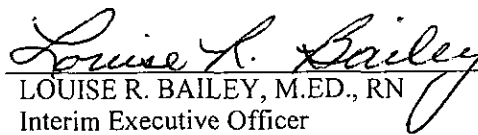
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 663765, issued to Joseph Cline Jacobs;
2. Ordering Joseph Cline Jacobs to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 12/15/09


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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